IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4951 OF 2005

M/s.Savita Chemicals Limited .. Petitioners
V/s
The Union of India & Ors. .. Respondents.

Mr.Prakash Shah i/by M/s.PDS Legal for Petitioners.
Mr.P.S.Jetley with Ms.S.V.Bharucha for Respondents

CORAM: DR.S.RADHAKRISHNAN &
J.H.BHATIA, JJ.

DATE : 29/07/2005.

P.C.:

1. Rule. Rule is made returnable forthwith. Heard the learned Counsel for the parties.

2. The basic grievance of the Petitioners is that the CESTAT did not hear the Appeal on merits. It appears that the Petitioners Appeal was dismissed by the CESTAT for non appearance on 10th January, 2005. The Tribunal however observed that the demand of duty is based on a short receipt of inputs and as such the Appellants do not have a case on merits. Even the restoration application filed by the Petitioners was also dismissed by the Tribunal by its order dated 28th March, 2005.

3. Having regard to the facts and circumstances of the case, we feel, in the larger interest of justice, the Petitioners ought to be allowed a fair opportunity to argue the Appeal on merits, as the same was not really argued before the CESTAT on merits and was dismissed in the absence of the Petitioners. Hence we hereby quash and set aside both the orders passed by the CESTAT dated

10.1.2005 and 28.3.2005 and restore the Appeal No.E/3143/03 before the CESTAT. CESTAT is accordingly directed to hear the aforesaid Appeal strictly on its own merits and in accordance with law. Rule is made absolute accordingly.

(DR.S.RADHAKRISHNAN J.)

(J.H.BHATIA J.)